

## HOUSE BILL NO. 512

INTRODUCED BY J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE LIMIT ON SCHOOL DISTRICT GENERAL FUND RESERVES TO PROVIDE FOR BUDGET STABILITY; AMENDING SECTIONS 20-3-324, 20-9-104, AND 20-9-165, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-3-324, MCA, is amended to read:

**"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board considers necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher's aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the school districts chapter of this title;

(7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or a budget amendment of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, the BASE budget levy, the over-BASE budget levy, the additional levy, the operating reserve, including a budget stability designation, and the state impact aid amounts for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal cooperative fund, and other funds as authorized by the state superintendent of public instruction in accordance with the provisions of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) set the length of the school term, school day, and school week in accordance with 20-1-302;

(18) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special education parts of this title;

(19) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(20) make reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or

guardian any medical reports or health records maintained by the district pertaining to the child;

(22) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except that trustees from a first-class school district may share the responsibility for visiting each school in the district;

(23) procure and display outside daily in suitable weather on school days at each school of the district an American flag that measures not less than 4 feet by 6 feet;

(24) provide that an American flag that measures approximately 12 inches by 18 inches be prominently displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

(25) adopt and administer a district policy on assessment for placement of any child who enrolls in a school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

(26) upon request and in compliance with confidentiality requirements of state and federal law, disclose to interested parties school district student assessment data for any test required by the board of public education;

(27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a postsecondary institution;

(28) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of 20-1-303;

(29) consider and, if advisable for a high school or K-12 district, establish a student financial institution, as defined in 32-1-115; and

(30) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

**Section 2.** Section 20-9-104, MCA, is amended to read:

**"20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to November 30 of the ensuing school fiscal year. In addition, the trustees may designate up to 5% of the general

1 fund end-of-the-year fund balance for budget stability purposes. Except as provided in subsections (5) and (6),  
2 the combined amount of the general fund balance that is ~~earmarked~~ designated as operating reserve and for  
3 budget stability purposes may not exceed ~~10%~~ 15% of the final general fund budget for the ensuing school fiscal  
4 year. The trustees of a district may transfer any funds remaining in the district's general fund end-of-the-year  
5 balance into the school flexibility account established in 20-9-542 or may apply it to reduce the over-BASE budget  
6 levy as defined in 20-9-306.

7 (2) The amount held as operating reserve may not be used for property tax reduction in the manner  
8 permitted by 20-9-141(1)(b) for other receipts.

9 (3) Excess reserves as provided in subsection (5) may be appropriated to reduce the BASE budget levy,  
10 the over-BASE budget levy, or the additional levy provided by 20-9-353.

11 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection  
12 (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax  
13 reduction as provided in 20-9-141(1)(b).

14 (5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal  
15 to or less than the unused balance of any amount:

16 (a) received in settlement of tax payments protested in a prior school fiscal year;

17 (b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of  
18 revenue or its agents; or

19 (c) received in delinquent taxes from a prior school fiscal year.

20 (6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
21 \$10,000 or less."

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23 **Section 3.** Section 20-9-165, MCA, is amended to read:

24 **"20-9-165. Budget amendment limitation, preparation, and adoption procedures.** (1) The meeting  
25 of the trustees to consider and adopt a budget amendment must be open to the public, and any taxpayer in the  
26 district has the right to appear and be heard. If at the meeting a majority of the trustees present find that there  
27 is sufficient need for a budget amendment, the trustees may make and adopt a final budget amendment, setting  
28 forth fully the facts constituting the need for the budget amendment. In adopting the final budget amendment, the  
29 trustees may budget for any fund that was included on the final budget of the district for the current school fiscal  
30 year. The budget must be itemized to show the amount appropriated for each item.

(2) When the budget amendment is the result of increased enrollment, the maximum amount of the budget amendment for all funds must be determined in the following manner:

(a) determine the total amount in the final budget for the current school fiscal year of all funds affected by the enrollment increase, less any amounts appropriated as capital outlay and any amount appropriated for addition to the operating reserve, including the budget stability designation;

(b) divide the amount determined in subsection (2)(a) by the number of pupils originally enrolled in the district during the immediately preceding school fiscal year. The resulting cost per pupil is the maximum permissible per-pupil expenditure in the budget amendment.

(c) determine the enrollment increase of the current school fiscal year by subtracting the number of pupils originally enrolled during the immediately preceding school fiscal year from the number of pupils enrolled for the current school year. The result is the enrollment increase for the current school fiscal year.

(d) multiply the cost per pupil determined in subsection (2)(b) by the enrollment increase determined in subsection (2)(c). The result is the maximum limitation on a budget amendment for amendments resulting from increased enrollment.

(3) For other types of budget amendments, the budget amendment is limited to the expenditures considered by the trustees to be reasonable and necessary to finance the conditions of the budget amendment and the final budget amendment must include the details of the proposed expenditures.

(4) Whenever the trustees adopt a budget amendment for the transportation fund, the trustees shall attach to the budget amendment a copy of each transportation contract that is connected with the budget amendment and that has been prepared and executed in accordance with the school transportation contract laws.

(5) After the trustees have adopted the budget amendment by a majority vote of the trustees, it must be signed by the presiding officer of the trustees and the clerk of the district and copies must be sent to the county superintendent and the superintendent of public instruction."

**NEW SECTION. Section 4. Effective date -- applicability.** [This act] is effective July 1, 2009, and applies to transfers into the district's school flexibility account or to amounts budgeted to the over-BASE budget levy on or after July 1, 2009.

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